

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CHARLES J. SAIN,

Plaintiff,

vs.

No. CIV 08-1019 RB/LFG

**CAROLYN M. SNYDER, MARY E.
CHAPPELLE, L. HELEN BENNETT,
RICHARD STOOPS, PATRICIA
MADRID, GARY KING, BETSY
SALCEDO, STANLEY WHITAKER,
DEBORAH DAVIS WALKER, WILLIAM
F. LANG, JUANITA DURAN, LYNN
PICKARD, JAMES J. WECHSLER,
MICHAEL VIGIL, MICHAEL D.
BUSTAMANTE, A. JOSEPH ALARID,
EDWARD L. CHAVEZ, PETRA JIMENEZ
MAEZ, RICHARD C. BOSSON, BILL
RICHARDSON, BERNALILLO COUNTY
SHERIFF'S DEPARTMENT, ERNESTO J.
ROMERO, RODERICK KENNEDY, CHARLES
W. DANIELS, PATRICIO M. SERNA, ELIZABETH
E. WHITEFIELD, VICKI AIKENHEAD RUIZ and
JO ANNE DE HERRERA,**

Defendants.

ORDER DENYING OBJECTION

THIS MATTER comes before the Court on pro se Plaintiff Charles J. Sain's Objection to Order Denying Motion for Reconsideration, filed July 20, 2009 (Doc. 226). Sain contends that the Court erroneously denied his motion for reconsideration, which he filed twenty-one days after entry of final judgment under Rule 60(b) of the Federal Rules of Civil Procedure. He asserts that the United States Supreme Court's opinion in *Stone v. I.N.S.*, 514 U.S. 386 (1995), establishes that this Court retained jurisdiction to grant his motion after he filed a Notice of Appeal.

Sain is incorrect. The Supreme Court in *Stone* noted only that "that the filing of a *Rule 59*

motion to alter or amend a district court's judgment strips the appellate court of jurisdiction, whether the Federal Rule of Civil Procedure 59 motion is filed before or after the notice of appeal." *Id.* at 397 (italics added). As the Court explained in its July 17, 2009 Order, Sain's motion to reconsider was *not* one brought under Rule 59 because it was filed more than ten days after final judgment. It did not, therefore, toll the Tenth Circuit's appellate jurisdiction over this case.

IT IS ORDERED that Sain's Objection to Order Denying Reconsideration (Doc. 226) is DENIED.

A handwritten signature in black ink, appearing to read "Robert Brack", is positioned above a horizontal line.

ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE